

Dear Kien T. Nguyen,

Thank you for your office communication dated 12/06/04 regarding my application serial number 09/998,618 for a “Waterproof Lyrics Display.” You will recall that, as stated in the application, “This invention aids singing in the shower. A preferred embodiment is a waterproof book of song lyrics which when wetted adheres to the shower wall. For best adhesion, the book has the slim proportions of a magazine or pamphlet...Its large font sizes are easy to read in shadowy light and streaming water ...Also disclosed are waterproof posters adhering wet to the shower wall and displaying lyrics.”

In his office communication, the examiner notes that “Applicant failed to submit an argument under the heading “Remarks” pointing out disagreements with the examiner’s contentions. Applicant must also discuss the references applied against the claims, explaining how the claims avoid the references or distinguish from them.”

To meet these requirements, I am resubmitting my 09/23/04 Response and appending the “Remarks” section below, which very specifically disagrees with the examiner’s contentions, and discusses the references of Logan and Kramer applied against the claims. I hope the previous arguments of my Response will also be taken into account.

#### REMARKS

The examiner rejected Claims 1, 2, 5, 6, 16, 18, 24, 25, 26, 28, 29, 34, 35, 42, 44, and 45, these being all the claims then in my application, under 35 U.S.C. 103(a) as being unpatentable over Logan U.S. Patent 6,449,460 in view of Kramer U.S. Patent 5,607,339.

In responding to the examiner’s arguments, I cancelled Claims 6, 16, 18, 26, 28, 34, 42, and 45. In my application only Claims 1, 2, 5, 24, 25, 29, 35, 44, 46, 47, 48, and 49 remain.

In his main argument on Page 2, the examiner states that: "Logan disclosed a teaching method and kit comprising a song book having a plurality of pages (18) with each page containing song lyrics (24), a binder connects the pages together" and further that "Logan failed to teach the pages are waterproof and support means for supporting the pages in a shower enclosure. However, as noted in the specification of the present application, singing in a shower enclosure is very well known and countless number of people had done it a long time. Kramer disclosed a bath toy comprising at least one sheet material (15) made from flexible water-proof material such as polymer plastic (see column 1, lines 40-42; and column 2, lines 39-41); the sheet (15) is removeably attached to a shower surface (12) solely by a layer of water (24) (see Fig. 3) wetted at least one page and located between the page and the shower surface for selectively attaching the page to the surface by water adhesion as shown in Fig. 1. Therefore, it would have been obvious to one of ordinary skill in the art to modify the pages of Logan with the teaching of waterproof page and supporting means for attaching the pages to the shower as taught by Kramer for the advantage of providing a wider usage of the singing teaching device of Logan."

In response to this, I would first call the examiner's attention to several definitions (3.12 - 3.14) in my application. "*Shower enclosure* means the vertical surfaces surrounding a shower head" and "*to shower* means to stand under a shower head." In the context of these definitions, and my application as a whole, a *shower surface* means a "streaming" (2.07) surface, one "down-pouring" (4.18) with water.

Now please notice that Kramer, while adhering his Bath Toy to the wall beside the bathtub, does not, contrary to the examiner (2.20) thereby adhere it to a "shower surface." A shower surface means, as seen above, a streaming surface. This is distinguishable from the unstreaming surface shown by Kramer, which is nearly dry. On his unstreaming surface his toy adheres; on our streaming surface, it does not. It could not be used for singing in the shower.

Also please note that Kramer does not, contrary to the examiner (2.21 - 2.22), disclose a "page." A page, whose normal function is to carry text on the most economical material possible, is normally paper-thin; whereas Kramer's foam (4.13) shapes are specified as 2mm to 6mm thick

(1.23), and he specifically excludes thinner “membrane materials” (3.26) as unsafe (4.01) for the young children using his Bath Toy. A paper-thin page normally has a very large area in proportion to its (almost negligible) thickness; and normally has a simple shape (usually rectangular) and thus a very large area in relation to total length of exposed edge. But a typical Kramer toy component (his Figs 1-2 ), being small and thick, has a very small area in relation to its thickness; and, being highly irregular in shape, has a very small area in relation to total length of exposed edge. Thus Kramer does not teach the proportions critical to the functioning of my invention. My extremely thin, large-area, short-edge page adheres by water adhesion to a streaming shower surface, withstanding for months the repeated heavy downpours of a shower; whereas Kramer’s thick, small-area, long-edge shapes wash off the streaming surface immediately.

Of course, as the examiner argues, pages of Logan could be waterproofed. But because Kramer cannot be used on a streaming surface, and does not teach use on a streaming surface, it does not, contrary to the examiner (2.24 - 3.01) teach such use for pages of Logan.

Although water adhesion supports Kramer’s foam on a nearly dry surface, it isn’t obvious from this that water adhesion will support paper on a streaming surface. It isn’t obvious that paper, waterproofed or not, will adhere by water adhesion sufficiently long to any surface, streaming or not, to be of any use. And water adhesion of a book to a streaming surface is even less obvious; and the slim proportions critical to that adhesion are less obvious still. Nor are many other factors obvious (please see pages 2 - 5 of my 09/23/04 response). Finally, while it’s certainly true that, as the examiner states (2.17), “countless number of people” sing in the shower-- no one has been singing while reading from a waterproof lyrics display. The great advantage of my invention is that by providing lyrics on a streaming shower wall, it quickly and dramatically improves singing.

Claims 6, 23, 26, 28, 43, and 45 having been canceled, I pass over the examiner’s remarks concerning them, and proceed to a discussion of the remaining claims.

In Claim 1, my invention aids “singing in a shower” having an “enclosure surface” by means of a “waterproof lyrics display” comprising at least one “waterproof page” of song lyrics

supported by “water adhesion.” The enclosure surface in the context of my invention clearly is a streaming surface, one downpouring with water. But Kramer does not adhere on a streaming surface, and does not teach adhesion on a streaming surface. Neither Logan’s Teaching Method And Kit nor Kramer’s Bath Toy has a waterproof page; Logan, because his paper isn’t waterproof; and Kramer, because instead of pages he provides small, thick, irregular shapes of foam. Neither Logan nor Kramer is a waterproof lyrics display. And neither are useable in a shower; Logan, because not waterproof-- and his teacher and students would have to be nude; Kramer, because the downpour washes his thick little shapes off the streaming surface.

Claim 2 shows “multiple pages.” Whereas Kramer has no pages, but separate foam shapes. As for Logan’s pages, they are bound in a heavy ringbinder, which-- even if it were waterproofed --could not be supported by water adhesion.

In Claim 5, my multiple pages comprise a “book” having a “flexible binding” enabling it to “flatten closely against the shower enclosure surface” for support by water adhesion. But Kramer is not a book, and Logan’s ringbinder-- even if it were waterproofed and light in weight-- cannot sufficiently flatten to be supported by water adhesion.

In Claim 24, my book has “the slim proportions of a magazine or pamphlet” such that the “weight and thickness” enable support by water adhesion. As seen before, neither Logan nor Kramer addresses these critical issues of proportion for water adhesion, and neither enables water adhesion support on a streaming surface downpouring with water.

Claim 25 specifies a range of proportions suitable for water adhesion on a streaming surface. Both Logan and Kramer fall outside this range; Logan being too thick and bulky; Kramer being too small in area.

Claim 29 specifies font sizes large enough for lyrics to be easily read through streaming and dowpouring water, and page sizes large enough to display an entire song in the specified font sizes. Neither Logan nor Kramer addresses these important issues.

Claim 35 shows a method of aiding singing in a shower by providing a “waterproof page” of lyrics and supporting it by “water adhesion”. But as discussed above, neither Logan nor Kramer provides a waterproof page; Logan because his page isn’t waterproof; Kramer because he provides no page, but small foam shapes. And, for reasons already discussed, neither Logan nor Kramer can be sufficiently supported by water adhesion on a streaming shower surface.

In Claim 44, the method further includes the step of “sliding” the page to “different locations” on the enclosure surface-- the purpose being to convenience singers of different height. Neither Logan nor Kramer addresses the step of sliding or this convenience.

Claim 46 shows a “waterproof lyrics display system” combining features already discussed, and further specifying that the page be “paper-thin” to distinguish it further from Kramer’s thick foam shapes.

Claim 47 adds to the display system of Claim 46 “multiple pages” comprising a “book” with binding “sufficiently flexible” for water adhesion, and “sufficiently thin and lightweight” that water adhesion can resist “the flood of water against the edges of the book.” As discussed before, neither Logan nor Kramer meet these criteria. Note especially the bulk and weight of Logan; and the thick edges of Kramer’s small foam shapes, which-- even if they were considerably larger-- would still, because of the edges, wash quickly off the streaming shower surface.

Claim 48 specifies for my waterproof lyrics display a selection of three "paper-thin" materials-- "water-proof paper, waterproof plastic, and laminated paper." None of these materials are used in Logan, whose paper isn't waterproof and has no need to be; or in Kramer, who specifies thick foam, and specifically excludes thinner materials as unsafe for children.

Claim 49 shows my "book" of claim 47 as thinner than "2mm," distinguishing it further from Kramer's specified foam 2mm to 6mm thick, and of course from Logan's ringbinder.

Respectfully submitted  
DAVID STEIN

Dated: Mar. 28, 05

David Stein  
319 West 106th Street #2a  
New York, NY 10025  
212-663-2325  
[davidstein6314@earthlink.net](mailto:davidstein6314@earthlink.net)

